MISCEGENATION—CONSTITUTIONAL LAW—CONSTRUCTION.—The constitution of North Carolina now embodies a former statute which provided that marriage between a white person and a person of negro descent to the third generation, inclusive, shall be void. (Const. Art. 14, § 8; Revisal 1905, § 2083.) In an action for divorce plaintiff based his action upon the fact that a great-grandfather of defendant was a negro. *Held,* that a negro ancestor of the third generation, to render a marriage void, must be of pure negro blood, and not merely one who has his status as a negro ascertained and fixed by the recognition and general concensus of the community where he lives; and that the action by the constitutional convention in adopting a public statute of accepted construction while not conclusive affords well-nigh convincing evidence that the words were to bear their established meaning. *Ferrall* v. *Ferrall* (1910), — N. C. —, 69 S. E. 60.

In its conclusion the court is supported by its own decision in *Hare* v. *Board of Education,* 113 N. C. 9, wherein it was held that the ancestor of the first generation counted must, under the statute, be of full negro blood in order to exclude children of color from white schools. It is supported also by *McPherson* v. *Commonwealth,* 28 Grat. 939; *Liniton* v. *State,* 88 Ala. 216. In feeling almost absolutely bound to follow the interpretation given the old law, the court is supported by *Smith* v. *St. Paul, M. & M. Ry. Co.,* 39 Wash. 355, and *Sanders* v. *St. L. & N. O. Anchor Line,* 97 Mo. 26.

MUNICIPAL CORPORATIONS—ORDINANCES—VIOLATION—SMOKE ORDINANCE—NUISANCE.—Buffalo City Ordinances, c. 42, § 1, makes it unlawful for any person to permit the discharge of large quantities of smoke, having "a natural tendency to cause injury, detriment or annoyance to any person or persons or the public," etc., etc. In an action brought by the city of Buffalo against the defendant for a violation of this ordinance, the court refused to charge that the jury "must find from the facts that a nuisance exists, before they can find the defendant guilty." *Held,* that the refusal was proper. *City of Buffalo* v. *George P. Ray Mfg. Co.* (1910), 124 N. Y. Supp. 913.

The right to pass ordinances in reference to matters of police presupposes that there may be conditions which would not constitute a common law nuisance, but which are nevertheless inconsistent with the rights of individuals and the public, and the test of an ordinance is not whether there is, in fact, a nuisance, but whether the ordinance is reasonable and in conformance with the constitution and statutes. 1 DILLON'S MUN. CORP., Ed. 3, § 326; *State* v. *Fisher,* 52 Mo. 174; *City of St. Paul* v. *Colter,* 12 Minn. 41; *Adams* v. *City of Albany,* 29 Ga. 56; *Presb. Church* v. *City of N. Y.,* 5 Cow. 538; *McDermott* v. *Board of Police,* 5 Abb. Pr. 422; *Commonwealth* v. *Robertson,* 5 Cush. 438. The point as to whether the ordinance violated any constitutional rights of the defendant does not appear, from the report of the case, to have been taken up. In regard to the right of a municipality to pass ordinances infringing on private rights, existing unquestionably at common law, for the benefit of the public good see 4 MICH. L. REV. 468 and in particular these cases cited therein: *Wenham* v. *State,* 65 Neb. 394, 91 N. W. 421, 58 L. R. A. 825; *Train* v. *Boston Disinfecting Co.,* 144 Mass. 523; *Wilson* v. *Railroad,* 77 Miss. 714.